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8 **THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

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11 CORNELL WELLS, JR.,

12 Plaintiff,

13 vs.

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15 NATIONAL BOARD OF MEDICAL
EXAMINERS; FEDERATION OF
16 STATE MEDICAL BOARDS

17 Defendants.

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19 CASE NO.: 3:21-cv-01279

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21 **DECLARATION OF ERIC G.
YOUNG RE LATE-FILED JOINT
CASE MANAGEMENT
STATEMENT**

22 Case Management Conference Date:
August 11, 2021

23 Assigned to: The Hon. Jacqueline
24 Scott Corley

25 I, ERIC G. YOUNG, declare:

26 1. I am an attorney licensed to appear before all Courts of the State of California,
and I am admitted to practice law before this Honorable Court. If called upon, I could
and would competently testify to the matters stated herein from my own personal
knowledge, except for those matters which are stated on information and belief. As to
those matters, I believe them to be true.

1 2. I submit this Declaration to explain the late-filed Joint Case Management
2 Statement in this matter.

3 3. Counsel for the defense, Robert Burgoyne, and I had a brief meet and confer
4 telephone conversation on July 29, 2021. During that teleconference, Mr. Burgoyne
5 and I discussed preparation of the Joint Case Management Statement. I agreed to
6 prepare a first draft on Plaintiff's behalf and send it to Mr. Burgoyne for his review and
7 to add Defendants' portions.

8 4. The following week, I was involved in depositions in another matter that took
9 me away from my office and required my attention. Regrettably, I was unable to get a
10 complete draft of the Joint Case Management Statement prepared as I had hoped.
11 During this time, Mr. Burgoyne tried to reach me, but I was unavailable due to these
12 depositions.

13 5. On August 4, 2021, I emailed Mr. Burgoyne and advised him that I was only
14 partially done with a draft of the Joint CMC Statement to give him the opportunity to
15 prepare the draft. I advised Mr. Burgoyne at that time that, if the Joint Case
16 Management ended up being late, I would advise the Court that it was my
17 responsibility. Mr. Burgoyne graciously prepared a draft and emailed it back to me on
18 August 5, 2021.

19 6. I completed Plaintiff's portion of the Joint Case Management Statement late in
20 the evening on August 5, 2021. At 10:13 p.m., I emailed it to Mr. Burgoyne for any
21 comments or suggestions. I also advised him that I was standing by to file the Joint
22 Case Management Statement with the Court. I did not consider the fact Mr. Burgoyne
23 is on the East Coast. For him, the Joint Case Management Statement did not arrive in
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1 his email inbox until, at the earliest, 1:13 a.m. I should have taken the time change into
2 consideration.

3 7. I did not feel comfortable filing the Joint Case Management Statement without
4 hearing from Mr. Burgoyne beforehand, so I did not file it on August 5, 2021. We
5 exchanged emails on August 6, 2021 about the Joint Case Management Statement, and
6 I filed it promptly that day.

7 8. Any delay that occurred in getting the Joint Case Management Statement filed
8 is my responsibility. Over the past year, I had been merging my firm with another
9 attorney's firm with the idea of forming a law partnership. Unfortunately, the other
10 attorney was diagnosed with late-stage cancer earlier this year. As a result, I have taken
11 over his entire case load on my own in addition to my own clients under an agreement
12 he and I have to serve as "back up" for each other should any issues arise. As a result, I
13 have been under considerable, additional pressure to keep my matters moving forward
14 in a timely fashion, while trying to ascertain what needs to be done on his matters, the
15 majority of which involve active litigation or cases with trial dates. I believe the
16 additional pressure of managing what amounts to essentially double my normal case
17 load contributed to me not being able to get a draft of the Joint Case Management
18 Statement to Mr. Burgoyne in a timely fashion.

22 9. Certainly, once Mr. Burgoyne learned that I would not be able to get a draft
23 prepared as I had said I would, he got a draft to me quickly, and although I did
24 complete Plaintiff's portion in time to file it with the Court, I forgot that Mr. Burgoyne
25 is on the East Coast and would be receiving the document three hours later than when I
26 sent it.

1 5. I apologize to the Court for causing this delay and any inconvenience it may
2 have caused to the Court or its staff. I take my professional obligations to my clients
3 and the Court seriously. Under the current circumstances, however, I am facing
4 additional challenges to my work schedule that are extraordinary. I am taking steps to
5 address these issues, such as hiring additional staff. I respectfully request that the
6 Court excuse the late filing on this occasion given these atypical circumstances.
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8 I declare under penalty of perjury under the laws of the United States of America
9 that the foregoing is true and correct.
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Date: August 11, 2021
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12 By: /s/ERIC G. YOUNG
13 ERIC G. YOUNG, ESQ., Declarant,
14 Attorneys for CORNELL WELLS, ,
15 JR., Plaintiff
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CERTIFICATE OF SERVICE

Wells Jr. v. National Board of Medical Examiners, et al.

USDC-ND, Oakland Division, Case No. 3:21-cv-01279-JSC

At the time of service, I was over 18 years of age and not a party to this action. My business address is 411 Russell Avenue, Santa Rosa, CA 95403. I am employed in the office of a member of the bar of this Court at whose direction the service was made.

On August 11, 2021, I served the following identified document(s):

**DECLARATION OF ERIC G. YOUNG RE: LATE-FILED JOINT CASE
MANAGEMENT STATEMENT**

I served the document(s) on all interested parties as follows:

Name of Party/Counsel Served: Attorney For:

<p>Torryn Taylor Rodgers Robert Burgoyne Perkins Coie LLP 505 Howard Street, Ste. 1000 San Francisco, CA 94105 Tel: 415-344-7000 TRodgers@perkinscoie.com RBurgoyne@perkinscoie.com</p>	<p>Attorneys for National Board of Medical Examiners, and Federation of State Medical Boards, Inc.</p>
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I served the above-named documents as follows:

BY FACSIMILE TRANSMISSION - pursuant to agreement of the parties, from fax number (707) 289-8059 to the fax number(s) set forth above. The facsimile machine I used complied with Rule 2.301(3) and no error was reported by the machine. Pursuant to Rule 2.306(h)(4), I caused the machine to print a transmission record, a copy of which is attached.

BY MAIL -

By personally depositing the documents in a sealed envelope addressed as set forth above with the U.S. Postal Service, postage fully prepaid, sent by regular mail and certified mail, return receipt requested

By placing documents enclosed in a sealed envelope addressed as set forth above for collection and mailing. I am readily familiar with my firm's practice of collection and processing correspondence for mailing. In the ordinary course of my firm's business, correspondence is deposited with U.S. postal service on the same day it is placed for collection, postage fully prepaid.

BY PERSONAL SERVICE - by delivering a copy of the document(s) by hand to the addressee.

BY EXPRESS SERVICE - by depositing in a box or other facility regularly maintained by the express service carrier or delivering to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is to be served.

BY ELECTRONIC TRANSMISSION - pursuant to agreement of the parties, or by Court order, transmitting a PDF version of the document(s) by electronic mail to the party(ies) identified above using the e-mail address(es) indicated.

**BY ELECTRONIC TRANSMISSION ONLY DURING
CORONAVIRUS/COVID-19 PANDEMIC** – The document(s) were emailed to the persons at email addresses listed based on notice previously provided that, during the Coronavirus (COVID-19) pandemic, this office will be primarily working remotely, unable to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: November 5, 2020

YOUNG LAW OFFICE

/S/Eric G. Young
Eric G. Young